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November 13, 2013

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## ***Notice of Ex Parte***

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

**Re: WC Docket No. 10-90: Submission of Notice of Ex Parte Presentation**

Dear Ms. Dortch:

Pursuant to 47 C.F.R. §1.1206, the Nebraska Rural Independent Companies (“NRIC”) hereby provide this written ex parte response to the US Telecom (“US Telecom”) written ex parte presentation in WC Docket No. 10-90, dated October 21, 2013 (the “*US Telecom Ex Parte*”). The *US Telecom Ex Parte*, filed on behalf of the Price Cap (“PC”) Coalition, was, in part, in response to the NRIC ex parte dated September 6, 2013 that provided information regarding NRIC’s meeting with Commissioner Pai and Commission Staff (the “*NRIC September 6<sup>th</sup> Ex Parte*”). For the reasons stated herein, NRIC has an interest in the issues raised by the Connect America Cost Model (“CAM”) in light of the currently pending consideration by the Commission of creating incentives for rate-of-return (“RoR”) incumbent local exchange carriers (“ILECs”) (like to the NRIC members) to consider PC and/or the CAM as *regulatory options* for the recovery of their interstate costs and/or receipt of federal Universal Service Fund (“USF”) disbursements.<sup>1</sup>

Among other matters, US Telecom addresses the anomalies associated with certain urban areas (including those within the District of Columbia) that would be identified as census blocks eligible to receive Connect America Fund Phase II (“CAF II”) funding under the June 25, 2013 solution sets for the CAM released by the Commission.<sup>2</sup> In this regard, NRIC appreciates

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<sup>1</sup> See *Wireline Competition Bureau Seeks Comment on Options to Promote Rural Broadband in Rate-of-Return Areas*, Public Notice, WC Docket No. 10-90, DA 13-1112, released May 16, 2013 (“*May 16<sup>th</sup> Public Notice*”).

<sup>2</sup> See *US Telecom Ex Parte* at 1-2.

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USTA's acknowledgement<sup>3</sup> that low population density is one of the key drivers to determine higher-cost-to-serve areas. NRIC also appreciates the additional US Telecom acknowledgements that the CAM still needs changes to ensure that the funding anomalies noted in the *NRIC September 6<sup>th</sup> Ex Parte* can be addressed, and, according to US Telecom, that CostQuest "could easily make changes to the CAM" to address these anomalies.<sup>4</sup> At the same time, however, NRIC believes that the acknowledgements by US Telecom of these anomalies logically raises the need for continuing, critical reviews of the CAM and investigating improvements to the CAM based on publicly-released runs by the Commission.

NRIC respectfully submits that this continued critical review of the CAM is required to ensure that the overall universal service policies and mandates of the law are the primary drivers of any Commission action. To this end, it is uncertain whether the anomalies such as those addressed the *NRIC September 6<sup>th</sup> Ex Parte* and acknowledged in the *US Telecom Ex Parte* are isolated or if others problems in the CAM need to be identified and corrected. Thus, any such critical review, among other things, should result in changes in the CAM that provide a practical, common sense set of outcomes with respect to where CAF II funding will be provided. Further, any significant shifts from current model-based funding to CAM-based funding should be thoroughly investigated.

The need for this continuing critical review of the CAM, in NRIC's view, is also particularly necessary as the Commission addresses the issues raised in *May 16<sup>th</sup> Public Notice* with respect to, as noted above, creating incentives for RoR ILECs to consider *electing* PC regulation and/or utilization of a cost model for purposes of a RoR ILEC's federal universal service funding. As NRIC noted in its comments in response to the *May 16<sup>th</sup> Public Notice*,<sup>5</sup> the public interest would be served by the Commission providing the specific guidance and modifications requested in the NRIC comments. NRIC demonstrated that this specific guidance and the modifications that NRIC requested should, in turn, assist in making the options outlined in the *May 16<sup>th</sup> Public Notice* meaningful with respect to "the *voluntary election* to seek CAF-II model USF disbursements and/or to opt in to PC regulation."<sup>6</sup> The NRIC-requested Commission guidance should also "reflect the factual differences, already recognized by the Commission, between smaller RoR ILECs and the larger PC ILECs," thus allowing a smaller RoR ILEC "the

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<sup>3</sup> See *id* at 2.

<sup>4</sup> *Id.*

<sup>5</sup> See Comments of the Nebraska Rural Independent Companies in Response to May 16, 2013 Public Notice, WC Docket No. 10-90, filed June 17, 2013 (Redacted – For Public Inspection) ("*NRIC May 16<sup>th</sup> Public Notice Comments*").

<sup>6</sup> *Id.* at iii (emphasis in original).

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ability to make as informed a decision as possible with respect to any options that the Commission provides in these two areas.”<sup>7</sup>

In the absence of an appropriately tailored CAM for RoR ILECs that could be presented as one of the options arising from the *May 16<sup>th</sup> Public Notice*, NRIC is particularly concerned that decisions made in the CAF II PC proceeding may create precedents when addressing the issues raised in the *May 16<sup>th</sup> Public Notice* and create disincentives for RoR ILECs to consider PC and/or CAM-based federal USF disbursements. The highest-cost customers of a RoR ILEC (or for that matter any CAF-eligible telecommunications carrier that is an Eligible Telecommunications Carrier (“ETC”)) should not be relegated to sub-standard voice and broadband service as a result of an imprecise or improper cost model or inappropriate policy decisions reflected in support thresholds. The inherent differences between PC ILECs and RoR ILECs, for example the ability of PC ILECs to leverage economies of scale and scope, demonstrate the need for a more tailored approach in response to the *May 16<sup>th</sup> Public Notice* in developing the option for RoR ILECs to consider PC and/or CAM-based USF disbursements.

Particularly in the context of the *May 16<sup>th</sup> Public Notice*, NRIC notes that, even with a relatively precise cost model (*i.e.*, one that recognizes density as a major cost driver), application of improperly established lower and upper support thresholds may very well undermine the precision that the cost model was attempting to achieve. While NRIC continues to urge that the funding threshold should be based on a reasonable estimate of total revenues available from customers, if funding is based on a too-low funding threshold, NRIC is concerned that the possibility exists that relatively low-cost areas will receive unnecessary funding or funding above what is necessary. This result, in turn, would frustrate the policy objectives of the federal USF of ensuring that those consumers in higher-cost-to-serve areas have access to an underlying ETC’s network capable of meeting those consumers’ voice and broadband needs. NRIC respectfully submits that its concern demonstrates the need for the Commission to consider in the context of resolving the issues raised in the *May 16<sup>th</sup> Public Notice* the need for different thresholds for RoR carrier service areas where higher-cost-to-serve areas exist.<sup>8</sup>

Please contact the undersigned should you have any questions.

Respectfully submitted,

  
Thomas J. Moorman

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<sup>7</sup> *Id.*; see also *id.* at 2.

<sup>8</sup> See, e.g., NRIC *May 16<sup>th</sup> Public Notice Comments* at 6-8.